

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

IN RE:	*	
SKYMARK PROPERTIES III, LLC,	*	BANKRUPTCY CASE
Debtor,	*	CASE NO. 18-71708-JRS
	*	
	*	
MORROW GA INVESTORS, LLC,	*	CHAPTER 11
Creditor.	*	

**MORROW GA INVESTORS, LLC'S OBJECTION TO DEBTOR'S
MOTION FOR AUTHORITY TO USE CASH COLLATERAL AND REQUEST FOR
ADEQUATE PROTECTION**

COMES NOW, Morrow GA Investors, LLC., ("Morrow"), and hereby objects to the Debtor's Motion for Authority to Use Cash Collateral [Docket No. 13] (the "Motion") and further requests adequate protection payments. In support hereof, Morrow respectfully states as follows:

I. FACTUAL AND PROCEDURAL BACKGROUND

1. On December 28, 2018, (the "Petition Date"), a skeletal single asset Chapter 11 petition was filed by the Debtor Skymark Properties III, LLC., (the "Debtor") [Docket No. 1].
2. On January 4, 2019, Securityplus FCU ('Extensia Financial') filed a secured proof of claim (Claim No. 1) in the Debtor's bankruptcy case as the sole secured creditor holding first priority properly perfected liens as to the Debtor's real property and rents. Thereafter, the aforesaid Claim No. 1 was transferred to Morrow which filed a Notice of Transfer of Claim on January 10, 2019. [Docket No. 20].
3. On January 8, 2019, the Debtor filed the instant Motion to Use Cash Collateral serving Extensia Financial as the interested party.
4. Due to the aforesaid transfer of claim, Morrow now holds first priority, properly perfected liens in, without limitation, all real estate and cash held by the Debtor.

II. GROUNDS FOR OBJECTION

5. Morrow *does not* consent to the use of its cash collateral by the Debtor.
6. Section 363(c) of the Bankruptcy Code provides, in relevant part, that:
 - (2) The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless—
 - (A) each entity that has an interest in such cash collateral consents; or
 - (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.
7. All cash in the bankruptcy estate is subject to the first priority, properly perfected liens of Morrow. Because of the existence of these liens, and the lack of consent by Morrow or a Court order authorizing the use of this cash collateral, Morrow respectfully requests that the Court deny the Debtor's Motion.
8. The relief requested by the Debtor should be denied as it is not at all clear from the skeletal petition whether there will be adequate protection sufficient to permit the use of cash collateral.
9. The undersigned counsel has just recently been retained, and Morrow's initial analysis indicates that grounds exist for a dismissal of the Debtor's bankruptcy case.
10. Morrow reserves the right to supplement its objections at or prior to the hearing on the Motion, and to seek additional relief with respect to its cash collateral.

WHEREFORE, Morrow respectfully requests that the Court deny the Motion and provide such additional relief as is just and proper, including adequate protection payments.

Respectfully submitted this 14th day of January, 2019.

COLEMAN TALLEY LLP
/s/ Mark A. Gilbert
Mark A. Gilbert, Esq.
Attorney for Morrow GA Investors, LLC
State Bar No. 293797

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MORROW GA INVESTORS, LLC'S OBJECTION TO DEBTOR'S MOTION FOR AUTHORITY TO USE CASH COLLATERAL AND REQUEST FOR ADEQUATE PROTECTION has been furnished by notice of electronic filing or regular U. S. Mail to the following:

Skymark Properties III, LLC
1590 Adamson Parkway
Morrow, GA 30260

John A. Christy, Attorney at Law – ECF

U.S. Trustee - ECF

This 14th day of January, 2019.

COLEMAN TALLEY LLP

/s/ Mark A. Gilbert
Mark A. Gilbert, Esq.
Attorney for Morrow GA Investors, LLC
State Bar No. 293797

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